

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2011 JUL 14 PM 3:07

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ROBERT HEATH ULLERY,

Petitioner,

v.

RICK THALER, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

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2:11-CV-0120

**ORDER ADOPTING REPORT AND RECOMMENDATION and  
DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS**

Petitioner has initiated a federal habeas corpus proceeding in this Court. On June 23, 2011, the United States Magistrate Judge entered a Report and Recommendation recommending petitioner's proceeding be dismissed because petitioner's claims should have been brought under 42 U.S.C. § 1983 and because such claims, if cognizable in a federal habeas corpus proceeding, are time barred. Alternatively, the Magistrate Judge recommended petitioner's habeas application be denied on the merits. As of this date, petitioner has not filed objections to the Magistrate Judge's Report and Recommendation.

The undersigned United States District Judge has made an independent examination of the record in this case. The Magistrate Judge's Report and Recommendation is hereby ADOPTED, and the application filed by petitioner is hereby DISMISSED.

IT IS SO ORDERED.

ENTERED this 14<sup>th</sup> day of July 2011.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE